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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,433	01/04/2002	Alain Guiffant	Q66223	2390

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EXAMINER

MOORE, KARLA A

ART UNIT PAPER NUMBER

1763

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/937,433

Applicant(s)

GUIFFANT ET AL.

Examiner

Karla Moore

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-21 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 1-4 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/22413 to Plester in view of U.S. Patent No. 4,614,204 to Dolejs.

4. Plester discloses the invention substantially as claimed and comprising: a carousel machine (page 14, rows 30-36) for the treatment of hollow containers, of the type involving several different treatment stations (see Figure 2A, first group of identical treatment stations inside container and a second set of identical treatment stations outside container) whose purpose is to treat at least one hollow container (2), and of the type in which for at least one stage of treatment, the treatment source is connected to a pressure source via structures (20 or 22) (Figure 2A, not shown; page 11, row 32, through page 12, rows 5), characterized in that, for said stage, the machine comprises at least two sources of independent pressure and that the stations are distributed into as many groups (as noted above) as the machine involves sources, and that the means of distribution are such that each source is associated with a distinct group.

Art Unit: 1763

5. Each of the vacuum sources is considered to be supplying a treatment to a hollow container, in that they are maintaining pressures necessary for a plasma assisted polymerization of the container.

Although, the specification supplies examples of treatment, a specific definition of what the Applicant considers to be treatment is not provided. Therefore, Examiner has also relied on a Merriam-Webster definition for treatment, which is "techniques or actions customarily applied in a specified situation".

6. Examiner realizes that Plester fails to teach that the sources are used to maintain the stations at equivalent pressure. However, this is viewed as a method limitation and the courts have ruled that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

7. However, Plester fails to teach the treatment station is connected to a pressure source by means of a distribution device involving a swiveling coupling.

8. Dolejs discloses a single swiveling coupling (rotary valve) for connecting an apparatus with multiple fluid/pressure sources for the purpose of avoiding the obvious problems associated with numerous separate valves that must be simultaneously activated (column 4, rows 55-58).

9. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to have provided a single swiveling coupling for connecting an apparatus with multiple fluid/pressure sources for the purpose avoiding the numerous problems associated with numerous separate valves which must be simultaneously activated as taught by Dolejs.

10. With respect to claim 2, at any instant in Plester, one of the said sources is connected to at most, one station (page 11, row 32, through page 12, rows 5).

11. With respect to claim 3, in Plester, the means of distribution are such that at least one station of a group might be connected to an associated source, while at least one station of another group is connected to its own associated source. Multiple containers on the carousel can be connected to different sources simultaneously.

Art Unit: 1763

12. With respect to claim 4, Dolejs teach that a swivel coupling involves as many routes as the machine has sources for separately feeding groups of stations (column 10, rows 1-9). Plester teach the use of control valves for enabling vacuum to be supplied by a controller (page 14, rows 2-4).

13. With respect to claim 13, the sources of pressure are at a pressure less than atmospheric pressure.

14. With respect to claim 14, the only apparatus limitation appears to be the presence of two pumps, which are described above. The other recitations in the claim appear to be drawn to a method for using the apparatus. The courts have ruled a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Examiner notes that the apparatus of Plester is capable of creating plasma.

Allowable Subject Matter

15. Claims 15-21 are allowed.

16. Claims 5-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. With respect to claims 5-12, the following is an examiner's statement of reasons for allowance: the prior art fails to teach or fairly suggest the sealed swiveling coupling is realized under the form of a rotating distributor involving two coaxial crowns, one stationary (11) and the other rotating (rotor, 17), which are in contact at adjacent contact surfaces (seating surface, 19), in that the rotating crown involves some communication ports (Figure 3, 29, 33, 31, 35, 37 and 39 are shown), which are connected to each station, which are distributed in at least as many series as the machine has sources for the said stage; and which terminate in the contact surface of the rotating, and in that the ports of the same series, all correspond to stations of one same group, and follow the same

Art Unit: 1763

trajectory, while the ports of the two different series follow two different trajectories, in that the stationary crown implies some lights/holes which are connected to a pressure source, each of which terminates at the contact surface of the stationary crown in such a way as to be in the trajectory of a series of ports of the rotating crown, of such a kind that one station is connected to a pressure source when the corresponding port is to be found in line with a light/hole associated with this source, in that the stationary crown implies at least as many distinct series of at least one light/hole, as the number of series of ports, and in that the two sources of pressure are each connected to a light/hole of two distinct series of lights of the stationary crown.

18. With respect to claims 15-21, the prior art fails to teach or fairly suggest a rotating distributor for a carousel machine for the treatment of hollow containers, the machine involving several identical treatment stations each one designed to treat at least one hollow container, of the type in which the distributor implies to coaxial crowns, one stationary and the other rotating, which are in contact with each other in a sealed manner by the way of adjacent contact surfaces of the type in which the rotating crown involves communication ports which are each designed to be connected to a station and which terminate on the contact surface of the rotating crown and of the type in which the stationary crown involves at least one light/hole which is designed to be connected to a pressure source of the machine and which terminates on the contact surface of the stationary crown in such a way as to be on the trajectory of the ports of the rotating crown, in such a way that one station is connected to the pressure source when the corresponding port finds itself in line with the light/hole, characterized in that the ports of the rotating crown are distributed into at least two series, in that the ports of one same series follow the same trajectory while the ports of two different series follow different trajectories, in that the stationary crown implies as many distinct series of at least one light, as the number of the series ports, each of the lights being fitted on the trajectory of one of the series of ports, and in that the two independent and equivalent pressure sources are each connected to one light of two distinct series.

Art Unit: 1763

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karla Moore whose telephone number is 703.305.3142. The examiner can normally be reached on Monday-Friday, 8:30am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on 703.308.1633. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0661.

km


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